

COMMUNITY FACILITIES

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FOREWORD

America's communities face the choice of orderly or disorderly growth. Population pressures and the demands of an expanding economy already are taxing the resources of our communities to provide the amenities commensurate with the American standard of living. These pressures will increase in the years ahead.

Involved in communities providing the facilities that our people require are such complexities as the boundaries of local government, political authority, tax structures, industry participation, zoning regulations, staggering financial outlays and a multitude of other factors.

It is important that all segments of the home building industry, government and the general public, all of whom have a stake in this future growth, get fully informed about this growing problem of community facilities. To contribute to this understanding this bibliography was compiled by the National Housing Center Library under the auspices of the National Association of Home Builders.

JOSEPH B. HAVERSTICK
President

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PREFACE

Solution to the problem of furnishing community facilities for an expanding population and even more rapidly expanding city areas must be found to insure the continued health of our urban civilization. The Community Facilities Committee of the National Association of Home Builders feels that a bibliography of Community Facilities publications and articles will serve all citizens and officials concerned with a better America, and thereby facilitate the work of the Committee and builders dedicated to better housing.

This bibliography treats the broad subject of urban growth and the specific subjects of the concerned facilities (schools, water distribution, etc.). Planning and zoning are covered as tools which may be used toward a solution of the complex problem involved. It is hoped that the last section in the bibliography, annotated citations of pertinent legal cases, will be of particular interest. In most instances, the selection of references was limited to those dated 1951 and later.

Supplements are intended to keep this publication current and it is hoped that important additional titles will be furnished whenever omissions are discovered. Information as to important documents such as doctoral theses, whether published or not, are earnestly solicited in order that supplements might provide maximum service to students and practitioners in the field of urban development. As experience is gained in urban renewal

a section will be added on the renewal, and change of facilities in the central city as well as the interrelation of central facilities with those in the remainder of metropolitan areas. A comprehensive bibliography is being prepared in the field of real estate research projects under the auspices of the Urban Land Institute so a section on "Research" has been eliminated. An extensive bibliography on metropolitan communities has been prepared by the Government Affairs Foundation, Inc. This work, scheduled for publication in the near future, will be of considerable interest to those working with the community facilities problem.

We wish to express our appreciation to a number of individuals and organizations for many courtesies received during the preparation of this work. Mr. Max Wehrly and the staff of the Urban Land Institute made available the research files of that office. Mr. Jack Merelman of the National Institute of Municipal Law Officers was most kind in arranging the loan of much useful material. Mr. V. E. Hartman of the Washington Federation of Churches was especially helpful in the preparation of the section on church facilities. The librarians at the Housing and Home Finance Agency deserve a special word of thanks. And without the services and collection of the Library of Congress this bibliography could not have been completed.

Harry Arthur Boswell
Chairman, Community
Facilities Committee
National Association
of Home Builders

September 1956.

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940. McCarthy, J. F. Another victory for aesthetic factors as basis for zoning restrictions. *American Builder* 77(7):274 Sept. 1955.
941. Madison Bell Telephone Company and the Detroit Edison Company. Easement planning for utility systems. Detroit, Detroit Edison Co., 1954. 13 p.
942. Murphy, Andrew. Esthetics by decree? Local zoning boards may dictate house design. *NAHB Correlator* 10(2):138-139 Feb. 1956.
943. National Municipal League. Model state and regional planning law. New York, The League, 1955. 66 p.

A. GENERAL (Cont.)

944. U.S. Urban Renewal Administration. Provisions of housing codes in various American cities. Washington, Govt. Print. Off., 1956. 31 p. (Urban Renewal bulletin no.3)
945. Williams, Norman, Jr., ed. Esthetic zoning. American City 70(7):155 July 1955.

B. CASE CITATIONS

946. Alabama. Lipscomb v. Bessemer Board of Education 61 So.(2d)112 (Oct. 23, 1952).
School board proceeding to condemn property for school purposes upheld as sufficient reason.
947. Alabama. Oliver v. Water Works and Sanitary Sewer Board 73 So.(2d)552 (May 27, 1954); - Rehearing denied June 30, 1954.
Streets and sewers built by private owners, but city (Montgomery) held able to charge fee for controlling streets and for permitting connection of sewers with city sewer system.
948. Alabama. Waterworks and Sanitary Sewer Board of Montgomery v. Sullivan 69 So.(2d)709 (1953).
Sewer charges based on amount of water used, without exemption for a user whose property had been assessed for sewer construction, held illegal.
949. Arkansas. Incorporated Town of Mountain View v. Lackey 278 SW(2d)653 (May 9, 1955).
When owners platted large tract into blocks, streets, alleys and areas and included 10 acres laid out for city park, such action held to constitute dedication.
950. California. City of Chico v. First Avenue Baptist Church of Chico 233 Pac.(2d)587 (District Court of Appeal, Dec. 20, 1951).
Church exclusion from single-family residential zone upheld.

B. CASE CITATIONS (Cont.)

951. California. City of Vernon v. City of Los Angeles 275 Pac.(2d)72 (Calif. App., Oct. 21, 1954).
City contracts for use of sewage disposal facilities of another city and makes only partial payment of construction cost of sewers within its own boundaries. Does not contribute to joint construction necessary. Suit for free flowage against facility-owning city cannot be maintained.
952. California. Morris v. City of Los Angeles 254 Pac.(2d)935 (Court of Appeals [intermediate court], Mar. 24, 1953).
Small lot, already below minimum size under zoning, allowed to be divided. In old section, where almost all lots were sub-sized.
953. California. People v. Plywood Manufacturers of California 291 Pac.(2d)587. (Appellate Department, Superior Court, Nov. 21, 1955).
Court upheld in this decision several provisions of the state antismog regulations.
954. California. Redevelopment Agency of City and County of San Francisco v. Hayes 122 California Appellate(2d)777; 266 Pac.(2d)105 (1954); - Certiorari denied, 348 U.S.897 (1954).
Taking of land by eminent domain held when blighted area is blocking normal city redevelopment. Under California Community Redevelopment Law.
955. California. Roman Catholic Welfare Corporation of San Francisco v. City of Piedmont 289 Pac.(2d)438 (Supreme Court, Oct. 27, 1955); - Rehearing denied Nov. 23, 1955.
City denied right to prohibit private schools in area where public schools permitted.
956. Connecticut. Connecticut Beach v. Planning and Zoning Commission of Milford 103 Atl.(2d)815 (Supreme Court of Errors, Mar. 9, 1954).
Refusal to permit building new subdivision solely on grounds that town cannot finance necessary community facilities - held invalid.

B. CASE CITATIONS (Cont.)

957. Connecticut. Corthouts v. Township of Newington
99 Atl.(2d)112 (Sup. Ct., Aug. 4, 1953).
Residential construction permitted in an area
zoned as "industrial". Area rezoned from
residential to industrial after the purchase
of land in question. Land apparently not
needed for industrial uses now or in near
future.
958. Connecticut. Mars v. Zoning Commission of Town of
Bolton 109 Atl.(2d)876 (Conn. Ct. Com. Pleas,
Tollant Cty., Aug. 8, 1954).
Ordinance setting minimum square footage area
for dwellings and minimum lot sizes in resi-
dential and business districts upheld.
959. Connecticut. Gohld Realty Company v. City of
Hartford 141 Connecticut 135; 104 Atl.(2d)365
(Supreme Court of Errors, March 30, 1954).
Court upheld redevelopment agency's power to
set boundaries of redevelopment area - even if
some non-substandard land is included. Title I
of Housing Act of 1949.
960. Florida. Adams v. Housing Authority of City of
Daytona Beach 60 So.(2d)663 (Aug. 12, 1952);
- Rehearing denied Oct. 21, 1952.
City housing authority restrained from acquir-
ing slum area by purchase or eminent domain
when land would be resold or leased to private
redevelopers. Public purpose served only in-
cidentally.
961. Florida. Board of Public Instruction v. Town of
Bay Harbor 81 So.(2d)637 (April 29, 1955).
Town not permitted to enjoin County Board of
Instruction from building and operating public
school within town's limits.
962. Florida. Garvin et ux. v. Baker, Mayor, et al.
[two cases] 59 So.(2d)360 (May 30, 1952); -
Rehearing denied June 26, 1952.
Requirements for 60 foot streets and minimum-
size lots upheld.

B. CASE CITATIONS (Cont.)

963. Florida. Indian Rocks Beach South Shore v. Ewell
59 So.(2d)647 (June 13, 1952); - Rehearing
denied July 7, 1952.
All streets in subdivision considered dedicated to county when so stated on plat; county paving main street considered acceptance.
964. Florida. Mayer v. Dade County 82 So.(2d)51
(Sept. 21, 1955); - Rehearing denied Oct. 10, 1955.
Setback requirements not allowed since measured from a not yet existent street, not from property's boundary.
965. Florida. Miami Beach United Lutheran Church of
the Epiphany v. City of Miami Beach 82 So.(2d)
880 (Sept. 16, 1955).
Church acquired land in area in which church buildings were not permitted; buyers unaware of prohibition; other land nearby; zoning restriction upheld.
966. Florida. Newport Manor v. Carmen Land Co. 80 So.
(2d)127 (April 27, 1955).
Held that property owner had exclusive right to use sewer lines beneath dedicated streets when city did not reserve right to use system.
967. Georgia. City Council of Augusta v. Newsome.
89 SE(2d)485 (Oct. 13, 1955).
Property dedicated to city for use as a public park and so used for more than forty years cannot be declared abandoned and sold, even if proceeds of sale would be used for other public recreation areas.
968. Illinois. Chicago Land Clearance Commission v.
White 104 NE(2d)236 (Jan. 24, 1952);-Rehearing
denied Mar. 15, 1954.
Private property condemned for resale to insurance company which intended to erect housing project. Upheld on general slum clearance aim.

B. CASE CITATIONS (Cont.)

969. Illinois. City of Chicago v. Butler Brothers
113 NE(2d)210 (Ill. App., June 18, 1953).
Determination of smoke density by scientific device held more reliable than same by visual inspection.
970. Illinois. City of Chicago v. Kurowski 124 NE
(2d)579 (Ill. App., Dec. 13, 1954).
Installation and operation of 2nd kitchen in house held not a violation of zoning ordinance.
971. Illinois. City of Chicago v. Sachs 115 NE(2d)
762 (Nov. 18, 1953).
Exclusion of kindergarten play school from apartment building in area permitting all other types of school held unreasonable and capricious.
972. Illinois. Herzog Building Corp. v. City of Des
Plaines 119 NE(2d)732 (May 24, 1954).
Erection of shopping center in residential zone prohibited although land could be put to best use commercially. Traffic congestion and devaluation of other property reasons.
973. Illinois. Nichols v. City of Rock Island 121 NE
(2d)799 (Sept. 23, 1954).
City has right to build swimming pool, bath-house, and parking lot in park acquired by dedication.
974. Illinois. O'Brien v. City of Chicago 105 NE
(2d)917 (Appellate Court, April 15, 1952).
Church, in order to meet zoning ordinance requirement of being built on lot entirely surrounded by streets or alleys, divided lot and dedicated alley to city. City's acceptance of dedicated alley legalized building.
975. Illinois. People v. City of Chicago 111 NE(2d)626
(Mar. 23, 1953).
Amendment to Blighted Areas Redevelopment Act authorizes municipal land clearance commission to acquire and sell for residential development lands unmarketable for any of a number of reasons. Right upheld.

B. CASE CITATIONS (Cont.)

976. Illinois. Ronda Realty Corp. v. Lawton et al.
111 NE(2d)310 (1953).
Chicago ordinance required owners of apartment building (of more than 2 apartments) to provide off-street parking facilities on the lot for 33% of apartments. Illinois Supreme Court declared this discriminatory.
977. Indiana. Board of Zoning Appeals of Decatur v. Decatur, Ind. Co. of Jehovah's Witnesses
117 NE(2d)115 (Feb. 1, 1954).
Off-street parking facilities requirement for church building held valid. Held, however, that one parking space for each 6 seats requirement which would prohibit building of church restriction of freedom of worship.
978. Iowa. City of Des Moines v. City of West Des Moines 56 NW(2d)904 (Feb. 10, 1953).
Contract between two cities for one to supply other with sewage system use - questioned when 2nd city annexed territory - contract upheld on grounds of per capita charge arrangement.
979. Iowa. Ermels v. City of Webster City 71 NW(2d) 911 (Sept. 20, 1955).
Off-street parking facilities constitute "public use" for which power of eminent domain may be exercised, regardless of any resulting benefit to private individual.
980. Iowa. Livingston v. Davis 50 NW(2d)592
(Supreme Court, Dec. 13, 1951).
Private nursery school permitted in residential section. Cited as "private elementary school."
981. Kansas. Linden v. Board of Park Commissioners
285 Pac.(2d)1070 (July 6, 1955).
City required to file timely eminent domain proceedings, after taking rents from tenant.

B. CASE CITATIONS (Cont.)

982. Kansas. Redevelopment Authority of Kansas City v. State Corporation Commission 236 Pac.(2d)782 (Oct. 24, 1951).
State redevelopment act held too restrictive, in that it could be applied to only one city in state. (Minimum population specified.)
983. Kansas. State ex rel. Fatzer v. Redevelopment Authority of Kansas City 269 Pac.(2d)484 (April 10, 1954).
Slum clearance law applicable to only one city in state held unconstitutional.
984. Kansas. State ex rel. Hawks v. City of Topeka 243 Pac.(2d)218 (April 12, 1952).
Right of a city operating under a commission government to annex tracts under methods established for cities.
985. Kentucky. Baker v. City of Lexington 273 SW(2d)34 (Nov. 19, 1954).
Park property would be conveyed in fee simple to non-profit institution for construction of swimming pool; financing would be through bond issue with park property as security; property to be reconveyed to park board eventually; approved - possibility of foreclosure held to be so remote that it does not invalidate plan.
986. Kentucky. Clarke v. City of Albany 261 SW(2d)435 (Ky. App., Oct. 9, 1953).
Contractor on sewer system for city having given waiver of notice and time extension by city engineer - held due payment for balance due on contract.
987. Kentucky. Johnson v. City of Louisville 261 SW (2d)429 (Ky. App., Oct. 6, 1953).
City plan to propose bond issue to voters for construction of sewage disposal plant valid, even though plant would be used by other incorporated towns and unincorporated parts of county.

B. CASE CITATIONS (Cont.)

988. Kentucky. Whitaker v. Louisville Transit Company 274 SW(2d)391 (Ky. App., Jan. 10, 1955).
Bus company franchise right upheld for area annexed to city.
989. Louisiana. Archer v. City of Shreveport 85 So. (2d)837 (Court of Appeal, 2d Circuit, Feb. 2, 1956); - Rehearing denied Mar. 2, 1956.
Rezoning of one-family area to "neighborhood" commercial district to permit construction of shopping center.
990. Louisiana. City of New Orleans v. Levy 64 So. (2d)798 (1953).
Provision of Louisiana state constitution and New Orleans city ordinance to protect and preserve characteristic nature of New Orleans "Vieux Carre" - upheld by state Supreme Court. City's Vieux Carre Commission must agree to building, repair, materials, signs, etc.
991. Maine. Carlisle v. Bangor Recreation Center 103 Atl.(2d)339 (Feb. 27, 1954).
Bond issue to finance building city auditorium held to be debt of the recreation center, not the city; therefore not affected by constitutional debt limitation to city.
992. Maine. Commett v. City of Portland 107 Atl.(2d) 841 (Sept. 3, 1954).
City authorized to establish Slum Clearance and Redevelopment Authority - not an invalid delegation of legislative power.
993. Maryland. Feldman et al. v. Star Homes, Inc. et al. 84 Atl.(2d)903 (Court of Appeals of Maryland, Dec. 7, 1951).
Planning Commission approval of subdivision plat without public hearing upheld, since master plan and detailed area plans had been adopted after public hearings.

B. CASE CITATIONS (Cont.)

994. Maryland. Herzinger v. Mayor and City Council of Baltimore 98 Atl.(2d)87 (July 2, 1953).
Ordinance authorizing (for slum clearance) condemnation of "blighted and arrested" areas upheld as establishing sufficient standards.
995. Massachusetts. Attorney General v. Inhabitants of Town of Dover 100 NE(2d)1 (July 3, 1951).
State statute forbids exclusion of any church or denominational educational institutions. Local zoning restriction overruled.
996. Massachusetts. Howland v. Building Inspector of Cambridge 328 Mass. 155; 102 NE(2d)423 (1951).
Subdivision of lot without minimum frontage not allowed.
997. Massachusetts. Opinion of the Justices to the Senate 128 NE(2d)557,563 (July 7, 1955).
Proposed acts to create historic districts to be controlled by a commission for preservation and protection of historic buildings - held constitutional.
998. Massachusetts. Papadinis v. City of Somerville 121 NE(2d)714 (Sept. 21, 1954).

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- Massachusetts. Despatcher's Cafe v. Somerville Housing Authority 124 NE(2d)528 (Feb. 14, 1955).
Two cases involving same area, for which local authority proceeded with a plan to redevelop (from slum residential to light industrial area). Title I of H. Act of 1949. In first case, City Housing Authority cannot acquire land by eminent domain and exercise taxing powers for private purposes.
999. Michigan. Board of Education of the City of Grand Rapids v. Baczewski 65 NW(2d)810 (Sept. 8, 1954).
City not allowed to condemn vacant property for future school site (long-range future).

B. CASE CITATIONS (Cont.)

1000. Michigan. Hitchman v. Oakland Township 45 NW (2d)306 (Jan. 8, 1951).
Zoning ordinance stating minimum size of house and lot held invalid when requirement not necessary for health, safety, and public welfare of occupants.
1001. Michigan. In re. Slum Clearance in City of Detroit 50 NW(2d)340 (Dec. 13, 1951).
Public purpose served in condemnation of private property, resold to other private hands. General slum clearance basis.
1002. Michigan. Mooney v. Village of Orchard Lake 53 NW(2d)308 (May 16, 1952).
Village not permitted to exclude churches entirely. (Technically, 10% of the Village's area permitted such buildings by special permit.)
1003. Michigan. Peoples Community Hospital Authority v. City of Ecorse and City of River Rouge 70 NW(2d)749 (June 6, 1955).
Legally formed hospital authority's right to require cities to be members thereof and to pay taxes upheld.
1004. Michigan. Robyns v. City of Dearborn 67 NW(2d) 718 (Dec. 29, 1954).
Existing narrow lots made required distance between residences impossible. Court held that owners could not be forced to combine lots for building purposes.
1005. Mississippi. Wells v. City of Jackson 77 So. (2d)925 (Feb. 21, 1955).
City upheld in right to charge for use of city sewer system by persons outside city and to disconnect lines at city limit to enforce charges.
1006. Missouri. Flora Realty & Investment Co. v. City of Laduc 246 SW(2d)7721.
U.S. Supreme Court denied a petition for writ of certiorari to review decision of Missouri Supreme Court upholding a zoning requirement of minimum 3-acre lots per family. And forbidding institutional use of land except by special permit.

B. CASE CITATIONS (Cont.)

1007. Missouri. State ex rel. Dalton v. Land Clearance Authority for Redevelopment Authority of Kansas City 270 SW(2d)44 (July 28, 1954).

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- Missouri. Land Clearance for Redevelopment Authority of City of St. Louis v. City of St. Louis 270 SW(2d)58 (July 20, 1954).

Kansas City proposed to redevelop an area (with Federal help under Title I) with parking area and other private and commercial enterprises. Land held some admittedly non-substandard structures. Court upheld power to obtain non-substandard land as part of redevelopment plan. St. Louis Redevelopment Authority proposed to redevelop an insanitary area, partly as a park. Friendly suit, no actual controversy.

1008. New Hampshire. Velishka v. City of Nashua 106 Atl.(2d)571 (July 1, 1954).

New Hampshire Urban Redevelopment Law held constitutional - city permitted to sell or lease to private enterprise land in project for redevelopment.

1009. New Jersey. City of Newark v. Padula et al. 94 Atl.(2d)859 (Superior Court, Chancery Division, Jan. 30, 1953).

Subdivision regulations held not to operate retroactively.

1010. New Jersey. City of Rahway v. Raritan Homes, Inc. 91 Atl.(2d)409 (Oct. 3, 1952).

Municipality which had not established planning board, as permitted by state statutes, held unable to control subdivision sales.

1011. New Jersey. Condon v. Board of Public Works of City of Paterson 94 Atl.(2d)660 (Feb. 2, 1953).

Permit to build branch bank on lot vacant for 40 years in a residential zone denied. Called illegal "spot zoning" by court, not part of a comprehensive plan.

B. CASE CITATIONS (Cont.)

1012. New Jersey. Fischer v. Bedminster Township 90 Atl.(2d)757 (Superior Court, July 2, 1952).
Minimum acreage requirement upheld.
1013. New Jersey. Hasbrouck Heights Hospital Assn. v. Borough of Hasbrouck Heights in Bergen County 99 Atl.(2d)591 (N.J. Sup. Ct., App. Div., Oct. 8, 1953).
Ban on hospital in residential zone held valid.
1014. New Jersey. Haven Homes v. Raritan Township 116 Atl.(2d)25 (June 27, 1955).
Builder dedicates streets to municipality and thereby surrenders interest in water mains.
1015. New Jersey. Katomibar Realty Co. v. Webster 118 Atl.(2d)824 (Dec. 12, 1955).
Shopping center held beneficial to community; that in suburban communities, shopping centers are in keeping with the environment.
1016. New Jersey. Leimann v. Board of Adjustment of Cranford Township 88 Atl.(2d)337 (May 5, 1952).
Court's reversal of Board permit to build garden-type apartment in single-family area.
1017. New Jersey. Lionshead Lake, Inc. v. Township of Wayne 89 Atl.(2d)693 (June 26, 1952).
Minimum floor area for dwellings upheld.
Supreme Court dismissed an appeal, thereby affirming, in effect, the decision of the New Jersey Supreme Court.
1018. New Jersey. Magnolia Development Co. v. Coles 89 Atl.(2d)664 (June 16, 1952).
Ordinance requiring surety completion bond for streets in subdivision held invalid.
1019. New Jersey. Reid Development Corp. v. Parsippany-Troy Hills Tsp. 107 Atl.(2d)20 (Superior Court, July 16, 1954).
Township upheld in refusal to extend water mains to area where there were no present customers. But ordinance to charge developer with cost of extension of water mains held invalid.

B. CASE CITATIONS (Cont.)

1020. New Jersey. Springfield Township v. Bensley
88 Atl.(2d)271 (Superior Court, Mar. 29,
1952).
Apartment building under proposal was re-
designed to provide larger number of units.
Revised plan approved by building inspector.
During construction, local authorities tried
to stop on ground that larger number of units
could not be permitted. Court upheld builder.
1021. New Jersey. State v. Mundet Cork Corp. 86 Atl.
(2d)1 (Jan. 21, 1952).
Smoke control ordinance upheld. "Fumes"
defined.
1022. New Jersey. Yanow v. Seven Oaks Park 11 New
Jersey 341; 94 Atl.(2d)482 (Jan. 26, 1953).
Regulations to exclude colleges and post-
high school educational institutions from
area permitting public and parochial schools
upheld. "Service criterion" to the immedi-
ate community amplified.
1023. New York. Application of Great Neck Community
School 140 N. Y. Supp.(2d)221 (Sup. Ct.,
Nassau Cty., Mar. 15, 1955).
Private school had failed to apply to Board
of Appeals for special permit to locate in
zone restricted to public schools and so had
no recourse to courts, having failed to ex-
haust possible remedies.
1024. New York. Bleecker Luncheonette v. Wagner 141
N. Y. Supp.(2d)293 (Supreme [lower] Court,
Mar. 28, 1955).
Industrial slum clearance for residential re-
development (under Title I) upheld. Court held
that redevelopment would be of substantial pub-
lic benefit.
1025. New York. Brous v. Smith 106 NE(2d)503 (May 29,
1952).
Constitutionality of town law requiring in-
stallation and improvement of streets in
subdivision upheld.

B. CASE CITATIONS (Cont.)

1026. New York. Clark v. Fogelsonger 132 N. Y. Supp. (2d)590 (N. Y. Sup. Ct., App. Div., July 8, 1954).
Refusal of town building inspector to issue permit after approval of county official was given held arbitrary.
1027. New York. Community Synagogue v. Bates 147 N. Y. Supp.(2d)204 (Appellate Division, Dec. 19, 1955).
Permit denied on grounds that purposes other than religious use were intended.
1028. New York. Diocese of Rochester v. Planning Board of Town of Brighton 141 N. Y. Supp.(2d)487 (Sup. Ct., Monroe Cty., June 3, 1955).
Zoning authorities held not to have abused their discretion in denying application for permit to erect church, school, playgrounds and parking area in a Class "A" residential district.
1029. New York. Hicks Development Corp. v. Incorporated Village of Lawrence 126 N. Y. Supp.(2d) 222 (Sup. Ct., App. Div., Dec. 7, 1953).
Condemnation of lands for parks and recreation purposes upheld.
1030. New York. Hunter v. City of New York 121 N. Y. Supp.(2d)841 (N. Y. Sup. Ct., N. Y. Cty., Mar. 3, 1953).
Tenants, temporarily relocated by slum clearance project, held to have no legal capacity to sue to stop erection of housing project, even though they be deemed ultimate beneficiaries.
1031. New York. In re Harlam Slum Clearance Project, City of New York 114 N. Y. Supp.(2d)787 (N. Y. Sup. Ct., N. Y. Cty., July 14, 1952).
Condemnation of slum area and conveyance to private agencies for redevelopment held to be public purpose.
1032. New York. In re West Park (Manhattan Town) Slum Clearance Project 142 N. Y. Supp.(2d)333 (Sup. Ct., App. Div., June 24, 1955).
Acquisition awards held excessive.

B. CASE CITATIONS (Cont.)

1033. New York. Kaskel v. Impellitteri 121 N. Y. Supp.
(2d)848 (N. Y. Sup. Ct., N. Y. Cty., Mar. 13,
1953).
City finding that area proposed for redevelopment
substandard - upheld.
1034. New York. L. X. Corp. v. City of New York 115
N. Y. Supp.(2d)120 (N. Y. Sup. Ct., N. Y. Cty.,
Mar. 14, 1952).
Sewer rent upheld as charge for services
rendered, not a tax.
1035. New York. Lunmor Homes, Inc. v. Johnson 122 N. Y.
Supp.(2d)149 (N. Y. Sup. Ct., Westchester Cty.,
Mar. 3, 1953).
Certificate of occupancy withheld by building
inspector since petitioners had not met with
requirements of street and other improvements.
1036. New York. North Shore Unitarian Society v. Village
of Plandome 109 N. Y. Supp.(2d)803 (Oct. 31,
1951).
Exclusion of churches from entire village held
invalid.
1037. New York. People v. Bevevino 112 N. Y. Supp.(2d)
647 (N. Y. City Magis. Ct. of New York City,
May 7, 1952).
City Board of Smoke Control rule against dense
smoke discharge (pursuant to ordinance) held
valid. Violation of same held punishable offense.
1038. New York. Petrie v. City of Rochester 132 N. Y.
Supp.(2d)501 (N. Y. Sup. Ct., Monroe Cty.,
July 6, 1954).
City adopted ordinances authorizing installa-
tion of sewer and water utilities, installation
of sidewalks, street paving. Court held that
such action by city constituted legal accept-
ance of offer of dedication of entire street.

B. CASE CITATIONS (Cont.)

1039. New York. Rabasco v. Town of Greenburgh 137 N. Y. Supp.(2d)802 (Appellate Division, Feb. 14, 1955).
Changes in zoning requirements made without notice of public hearing and lack of 3/4 vote of Town Board held invalid. Changes would have permitted construction of a public housing project.
1040. New York. Titus St. Paul Property Owners Assn. v. Board of Zoning Appeals of Town of Irondequoit 132 N. Y. Supp.(2d)148 (N. Y. Sup. Ct., Monroe Cty., July 7, 1954).
Religious corporation granted permit to use realty for house of worship and religious education, provided that off-street parking be provided. Court held that Board had no right to make such a restriction, but that the provision would be removed only upon complaint of property users (religious corporation), not of others in neighborhood.
1041. New York. Union Free School District no.14 of Town of Hempstead v. Village of Hewlett Bay Park 107 N. Y. Supp.(2d)858 (Appellate Division, Oct. 29, 1951).
Exclusion of schools from village invalid. Statutory authorization would be necessary. Court noted that enabling act indicated that provisions for adequate schooling facilities should be made.
1042. North Dakota. Ferch v. Housing Authority of Cass County 59 NW(2d)849 (July 22, 1953).
North Dakota slum clearance and low-rent housing statute held constitutional.
1043. Ohio. City of Cleveland v. Langenau Mfg. Co. 128 NE(2d)130 (Ohio, App., July 1, 1954).
Market value of condemned property a guide only, not held binding on jury award.

B. CASE CITATIONS (Cont.)

1044. Ohio. State ex rel. Anshe Chesed Congregation v. Bruggemeier 115 NE(2d)65 (Ohio App., Oct. 19, 1953).
Refusal to allow building of temple invalid since application for required special permit had been made.
1045. Ohio. State ex rel. Bruestle, City Sol. v. Rich, Mayor et al. 110 NE(2d)778 (Feb. 18, 1953).
Eminent domain in slum clearance held beneficial to public and therefore a lawful purpose of government - city officials directed to initiate slum clearance projects.
1046. Ohio. State ex rel. Weber v. Vajner 108 NE(2d)569 (Ohio Court of Appeals [intermediate court], Mar. 3, 1952).
Requirement of street frontage of lot held invalid - street not yet dedicated when zoning requirement went into effect.
1047. Oklahoma. Garfield, Inc. Corp. v. City of Enid 122 F. Supp.73 (U. S. D. C., W. D. Okla., May 26, 1954).
Corporation paid total assessment, including cost of outfall line for sewer to drain land in addition to that of corporation; corporation held unable to collect cost of outfall line from city.
1048. Oklahoma. Wichita Finance and Thrift Co. v. City of Lawton 131 F. Supp.788 (W. D. Okla., Feb. 21, 1955).
City entered into contract to rent water lines constructed by developer in new housing project. City then declared developer a hostile owner and denied developer rights and interests in lines. Court held that developer could withdraw use of lines from city.
1049. Oregon. Raz v. City of Portland 280 Pac.(2d)394 (Feb. 16, 1955).
Ordinance to provide for construction of sewers upheld as clear benefit to property owners. Assessments cannot be challenged before they are made.

B. CASE CITATIONS (Cont.)

1050. Pennsylvania. Appeal of Borden 87 Atl.(2d)465 (Mar. 24, 1952).
Garden-type apartment building approved for single-family zoned area. Restaurant and parking lot for exclusive use of tenants also approved.
1051. Pennsylvania. Hannum v. Oak Lane Shopping Center 119 Atl.(2d)213 (Jan. 4, 1956).
Shopping center held integral part of suburban community and not a nuisance per se.
1052. Pennsylvania. White Oak Borough Authority v. City of McKeesport 108 Atl.(2d)760 (Nov. 8, 1954).
City and borough agree to construct sewer - task assigned to municipal authority. Borough does not have right of joint control of sewerage system in absence of joint board.
1053. Rhode Island. Ajootian v. Providence Redevelopment Agency of City of Providence 91 Atl.(2d) 21 (Aug. 11, 1952).
Condemnation of private property for resale to another private builder upheld as "public purpose served" on grounds of slum clearance.
1054. Tennessee. Harper v. Trenton Housing Authority 274 SW(2d)635 (Court of Appeals, Oct. 7, 1953).
Condemnation of vacant property for construction of Negro public housing development upheld - lowering of property values in adjacent white residential area was the losing argument.
1055. Tennessee. Nashville Housing Authority v. City of Nashville 237 SW(2d)946 (Mar. 9, 1951).
Constitutionality of slum clearance statute upheld.

B. CASE CITATIONS (Cont.)

1056. Texas. City of Breckenridge v. Stoker 264 SW(2d) 511 (Texas Civ. App., Jan. 22, 1954); - Rehearing denied Feb. 12, 1954.
Held that city could not be compelled to extend water and sewer mains, but that city, having received property and services under contract, could be held liable for reasonable value of such services and property.
1057. Texas. Davis v. City of Abilene 250 SW(2d)685 (Texas Civ. App., June 27, 1952).
Right of city to enforce set-back requirements of zoning ordinance upheld.
1058. Texas. Schley v. City of Gilmer 271 SW(2d)100 (Texas Civ. App., Sept. 9, 1954).
Non-residents may be charged higher rates for water and sewage system use than residents.
1059. Texas. State v. City of Houston 270 SW(2d)235 (Texas Civ. App., June 17, 1954); - Rehearing denied July 8, 1954.
Right of annexing city to contract with adjoining city for sewer and water service to annexed area upheld - even if rates higher than those charged by annexing city.
1060. U. S. Supreme Court decision: Berman v. Parker 348 U.S. 26 (1954).
Zoning for aesthetic purposes upheld.
1061. U. S. Supreme Court decision: Saxony Construction Co. v. Marple Township, Pennsylvania 351 U.S. 935 (May 21, 1956).
Appeal from Pennsylvania Supreme Court decision rejected. Held that builder must install dead-end sewer lines although lines not needed for immediate use.
1062. Virginia. City of Falls Church v. Board of Supervisors of Fairfax County 68 SE(2d)96 (Dec. 3, 1951).
Annexation proceedings by city not allowed, on grounds that city had failed to establish necessity and expediency for the action.

B. CASE CITATIONS (Cont.)

1063. Virginia. City of Hampton, Virginia v. United States 218 F.(2d)401 (4th Circuit, Jan. 5, 1955).
County, now incorporated as city, contracted with Federal Government to establish and maintain sewage pumping plant and main to service government housing project. Money advanced by Federal Government, to be repaid in installments from revenue of sewer district. U.S. entitled to collect past due installments even though sewerage system is conveyed to city.
1064. Virginia. Hunter v. Norfolk Redevelopment and Housing Authority 78 SE(2d)893 (Nov. 30, 1953).
Condemnation of private property by housing authority for slum clearance held valid even though part of land thus acquired was to be made available to private enterprise for redevelopment.
1065. Washington. City of Bellingham v. Whatcom County 245 Pac.(2d)1016 (June 26, 1952).
City and county entered into agreement whereby county promised to cancel all taxes then due and unpaid on property acquired by city in consideration of city promise to furnish free water to county courthouse as long as property remained off tax rolls. Upheld.
1066. Wisconsin. Att. Gen. decision against Park Ridge, Ill. on assessment of \$300 fee to builder.
(See Am. Builder, Aug. 1955, p.17-18)
1067. Wisconsin. City of Milwaukee v. Sewerage Commission of the City of Milwaukee 67 NW(2d) 624 (Dec. 20, 1954).
Consolidated area entitled to use sewer facilities; consolidation a right of each city as part of growth.

B. CASE CITATIONS (Cont.)

1068. Wisconsin. David Jeffrey Co. v. City of Milwaukee
267 Wisconsin 554; 66 NW(2d)362 (Oct. 5, 1954).
City upheld in proposal to redevelop 7 areas,
with Federal aid under Title I. Narrow view
of public use, as requiring use by public,
restated as rule in Wisconsin. Areas would be
held in public ownership, at least briefly.
1069. Wisconsin. State v. Wieland 69 NW(2d)217 (Mar.
8, 1955).
Upheld village of Fox Point refusal to grant
permit for house on aesthetic grounds.
1070. Wyoming. Stratton v. City of Riverton 287 Pac.
(2d)627 (Sept. 20, 1955).
Public road through area dedicated as public
park without reservation prohibited.

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